



## Licensing Committee

**Report title: The Five Bells, 155 New Cross Road, London, SE14 5DJ**

**Date:** 24 August 2022

**Key decision:** No.

**Class:** Part 1.

**Ward(s) affected:** New Cross

**Contributors:** Community Services – Licensing Authority, Head of Law.

### Outline and recommendations

Determination of an application for a variation to a Premises Licence submitted by the Craft Union Pub Company Ltd.

After having regard to all the representations heard, Members must take such steps as they consider appropriate to promote the Licensing Objectives.

### Timeline of engagement and decision-making

The Application was advertised in accordance with regulation 25 of the Licensing Act 2003.

The last day for representations was 1 August 2022.

This matter must be heard within 20 working days from the day after the last day of representations.

## This is an application to vary an existing premises licence

### 1. Current Licence Status

The premises are currently licensed for the following activities:

#### 1.1 Sale by retail of alcohol for consumption on the premises

10:00 – 23:00 Monday

10:00 – 23:00 Tuesday

10:00 – 23:00 Wednesday

10:00 – 00:30 Thursday

10:00 – 01:30 Friday  
10:00 – 01:30 Saturday  
12:00 – 22:30 Sunday

1.2 Provision of late night refreshment

23:00 - 00:00 Thursday  
23:00 – 01:00 Friday  
23:00 – 01:00 Saturday

2. **Application**

2.1 The application to vary the existing premises licence was sent to all the Responsible Authorities.

The application is to add the following activities:

2.2 Regulated Entertainment (Live, Recorded, performances of Dance & anything of a similar description)

10:00 – 23:00 – Monday  
10:00 – 23:00 - Tuesday  
10:00 – 23:00 - Wednesday  
10:00 – 00:30 - Thursday  
10:00 – 01:30 - Friday  
10:00 – 01:30 - Saturday  
12:00 – 22:30 – Sunday

2.4 One representation was received from a resident who lives in the vicinity on the grounds of the prevention of public nuisance. The representation suggests that the premises has been carrying out regulated entertainment for a while and that loud music and congregations of patrons outside have caused a noise nuisance.

2.5 The representation received has been examined by Officers and is not considered to be vexatious or frivolous. The representation was received within the specified time.

2.6 The application for the variation to this premises licence has been advertised in accordance with regulation 25, an advert in a local newspaper and a notice prominently displayed at the premises for a period of 28 consecutive days. The last date for receiving representations was the 1<sup>st</sup> August 2022.

3. **Outline of objections received**

3.1 The representation from the local resident suggests that the premises has been carrying out regulated entertainment for a while and that loud music and congregations of patrons outside have caused a noise nuisance. If the variation was granted, then it is suggested that any existing problems will be exacerbated and extend into the early hours of the morning.

4. **Legal & Human Rights Implications**

4.1 The Licensing authority is a public body under the Human Rights Act 1998. Therefore, the licensing authority is required to act compatibly with the convention rights in the

exercise of their functions. Article 6 (1) of the Convention provides that everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial hearing established by law.

- 4.2 A Premises Licence is a possession for the purpose of the Human Rights Act 1998. The right to hold a licence is a qualified rather than an absolute right. Therefore, the right to hold a licence may be interfered with, if it affects the interests of local residents or others. Such interference may be justified, if it is necessary and proportionate to promote the licensing objectives.

## **5. Equalities Implications**

- 5.1 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 5.2 In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

- 5.3 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above.

- 5.4 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Committee, bearing in mind the issues of relevance and proportionality. The Committee must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.

- 5.5 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The Guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

- 5.6 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- [The essential guide to the public sector equality duty](#)
  - [Meeting the equality duty in policy and decision-making](#)
  - [Engagement and the equality duty: A guide for public authorities](#)
  - [Objectives and the equality duty. A guide for public authorities](#)
  - [Equality Information and the Equality Duty: A Guide for Public Authorities](#)
- 5.7 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:  
<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

## 6. **Application to Vary a Premises Licence**

- 6.1 After having regard to all representations, Members must take such steps as they consider necessary for the promotion of the licensing objectives. The licensing committee may:
- 1.) Modify the conditions of the licence; or
  - 2.) Refuse the whole or part of the application.
- 6.2 An appeal may be made against the decision to the Magistrates Court within 21 days.

### Background Papers

<u>Short Title of Document</u>	<u>Date</u>
Application for Variation to Premises Licence	4 <sup>th</sup> July 2022
Evidence / documents	As dated

Should you require any further information on this report please contact Richard Lockett at Licensing on 020 8314 3389.